

REMARKS

In the Advisory Action dated November 3, 2000, Claims 47 and 51 have been rejected under 35 U.S.C. §112, first paragraph as allegedly lacking enabling support. The specification has been objected to as allegedly containing defects in the Brief Description of the Drawings. The Declaration has also been objected to as allegedly containing an address that is illegible.

Claims 28, 30, 33, 44, 45, 46 and 50 have been allowed.

In response to the above rejections, applicants have amended the claims, which when considered with the accompanying comments is deemed to place the present application in condition for allowance.

Applicants, through the undersigned, wish to thank Examiner Saoud for the courtesy and assistance provided in connection with a telephonic interview conducted on December 19, 2000.

The Examiner has rejected Claims 47 and 51 under 35 U.S.C. §112, first paragraph as allegedly lacking enabling support. The Examiner specifically alleges that "the claims are not limited to nucleic acid molecules encoding a protein with a specific amino acid sequence..." The Examiner admits that the "Applicants have possession of a nucleic acid molecule which encodes a protein of SEQ ID NO:4 [noting that] this

nucleic acid molecule has a nucleic acid sequence of SEQ ID NO:3."

Applicants respectfully submit that Claim 47 as amended, recites an isolated nucleic acid comprising the sequence of Figure 2 (SEQ ID NO:3). Support for the amendment to Claim 47 is found throughout the specification and particularly at original Claim 32, Figure 2 and Page 6, Lines 27-30, for example. No new matter has been added.

The Examiner also alleges that the "application fails to provide a written description of the species or genus which are encompassed by the claimed...nucleic acids which hybridize to SEQ ID NO:3 under low stringency conditions...". Applicants respectfully submit that the specification adequately describes examples of nucleic acids capable of hybridizing to SEQ ID NO:3. Specifically, nucleic acids corresponding to SEQ ID NOS:5, 7 and 9 are respectively 98.9, 95.1 and 99.2 identical (at the nucleic acid level) to SEQ ID NO:3. In this regard, applicants submit that SEQ ID NOS:5, 7 and 9 hybridize under low stringency conditions to a reverse complement of SEQ ID NO:3. The Examiner's attention is respectfully directed to the specification at Page 14, Example 1 wherein several cDNA clones were obtained by hybridization to SEQ ID NO:3. However, in an effort to further favorable prosecution on the merits, applicants have cancelled Claim 51, without prejudice.

The immediate issuance of the allowable claims is desired to cover commercially relevant products. The cancellation of certain recitations from Claim 47 and Claim 51 from the present application is solely a decision by applicants to expedite issuance of certain claims grounded on the commercial potential of the molecules embraced by the presently allowable claims. Such amendments and/or cancellation is not to be construed as an admission of the unpatentability of any canceled or amended claim. Accordingly, the cancellation of Claim 51 is clearly based on a substantial reason unrelated to patentability.

Applicants explicitly reserve the right to file one or more continuing applications directed to the subject matter of the cancelled claims or to claim such subject matter in a related copending application. Accordingly, the rejections of Claims 47 and 51 under 35 U.S.C. §112, first paragraph are overcome and withdrawal thereof is respectfully requested.

Consistent with the interview with Examiner Saoud on December 19, 2000, Applicants have added Claims 52 and 53 to further define the subject matter to which applicants are entitled. Support for Claims 52 and 53 is found throughout the specification and particularly in Figure 2 and SEQ ID NOS:3 and 4. No new matter has been added.

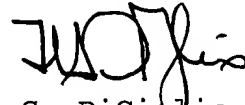
The Examiner has objected to the Brief Description of the Figures under 37 C.F.R. §1.84(u)(i). Applicants have

amended the Brief Description of the Figures and the specification in accordance with the separate numbering requirements of 37 C.F.R. §1.84(u)(i). Withdrawal of the objection to the Brief Description of the Figures under 37 C.F.R. §1.84(u)(i) is therefore respectfully requested.

The Declaration has been objected to due as allegedly containing an illegible address for Gunther Weber. Applicants are undertaking to obtain a substitute declaration and will forward such declaration to the United States Patent and Trademark Office upon receipt thereof.

Thus, in view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,



Frank S. DiGiglio
Registration No. 31,346

SCULLY, SCOTT, MURPHY & PRESSER
400 Garden City Plaza
Garden City, New York 11530
(516) 742-4343

PIB:bb